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# **GOVERNOR'S TASK FORCE ON BROADBAND**

**PERMITTING AND RIGHT OF WAY PROCESS**

# INTRODUCTION

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DOWL Experience

Typical Permits and ROW Processes

Key Considerations

Critical Paths

Hypothetical Project

What Works Well

How to Reduce Delays/Recommendations

## AU ALEUTIAN

### Environmental Assessment

#### Prepared for:

Unicom, Inc.  
5450 A Street  
Anchorage, Alaska 99518

#### Prepared on behalf of:

U.S. Department of Agriculture  
Rural Development



#### Prepared by:

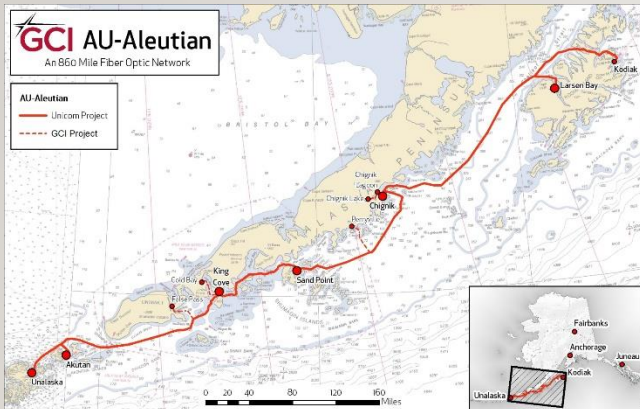
DOWL  
4041 B Street  
Anchorage, Alaska 99503

July 2021

# DOWL STAFF EXPERIENCE

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- AU Aleutian – Unicom/GCI
- New Internet Connections for Everyone in Yakutat - Cordova Telecom
- Subsea Project – Quintillion
- Bortek Fiber Optic Project – Quintillion and GCI
- Industrial Telecom/Tower Deployment (statewide) – GCI
- BLM ROW Renewal - GCI



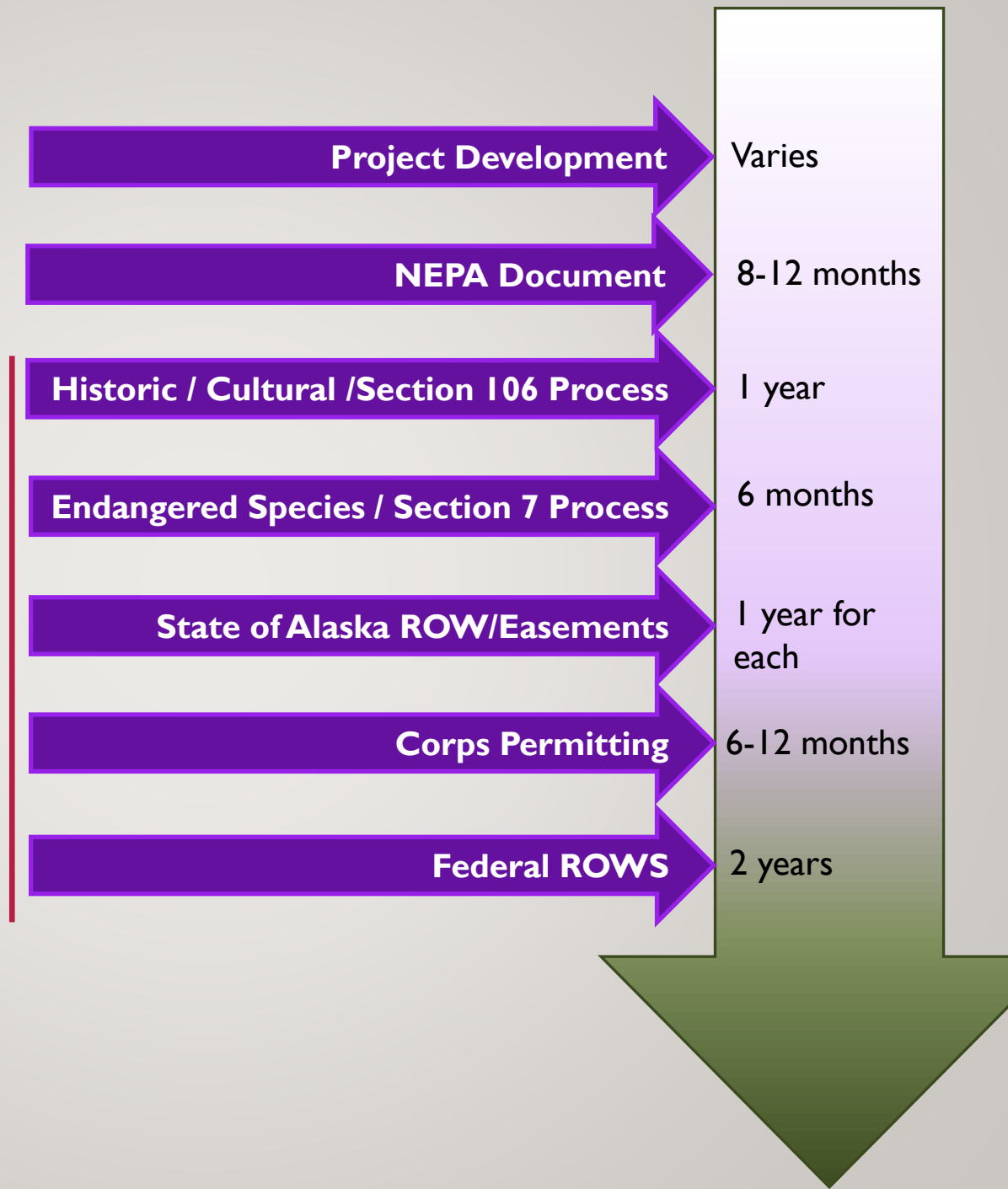
## TYPICAL PERMITS AND ROW PROCESSES

- National Environmental Policy Act (NEPA) of 1969
- Section 106 - National Historic Preservation Act of 1966 / Alaska State Historic Preservation Act
- Clean Water Act Section 404 and 401/Rivers and Harbors Act Section 10
- Magnuson-Stevens Fishery Conservation and Management Act / Essential Fish Habitat Assessments
- Endangered Species Act (Section 7)
- Easements and ROW - State of Alaska, BLM, Native Corporations, Private entities
- To be ruled out - Marine Mammal Protection Act

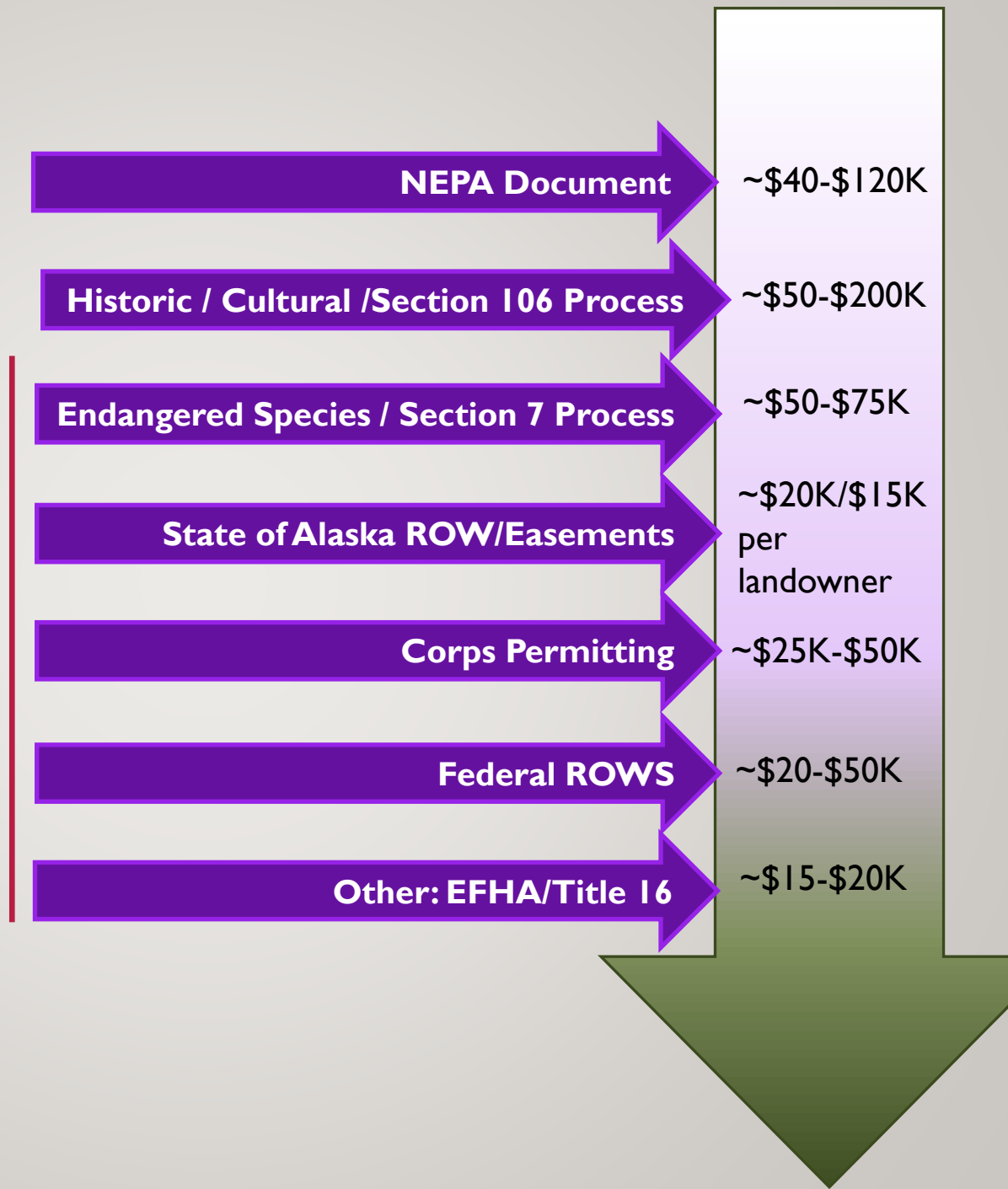
# KEY CONSIDERATIONS

- Federal v State processes
- Federal Agency Involvement
  - Who is lead agency? (dictates NEPA complexity and approval schedule)
  - How many other federal agencies involved? (dictates federal land use)
- Marine elements (subsea surveys and marine mammal/endangered species)
- Terrestrial elements (can trigger more extensive archaeological / cultural resource surveys and Section 7 endangered species consultations)
- Federal land involvement
- Type of USACE 404 Permit (Individual v Nationwide Permit)
- Changing Project Location and Design Elements
  - Hinders data collection, can restart regulatory 'clocks'
- Impacts to Private Property

# CRITICAL SCHEDULE PATHS



# CRITICAL COST PATHS





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| Task  | Schedule   |  |   |   |            |
|---|--|--|---|---|------------|
|   | Year 1   |  |   |   | Year 2     |
|   | Months 1-3*  | Months 3-6                                       | Months 6-9                                      | Months 9-12                                 | Months 1-3 |
| NEPA Document (EA)  | general agency scoping   | Prepare and submit                               |   | Public Comment and FONSI                    |            |
| Clean Water Act   | develop once project elements are determined   | permit approved (dependent on all consultations) |   |   |            |
| Essential Fish Habitat Assessment   | Conduct Essential Fish Habitat Assessment once routes and methods are finalized        | EFHA Complete                                    |   |   |            |
| Endangered Species Act  | draft two biological assessments once route is finalized                               | submit and review mitigation                     | letter of concurrence                           |   |            |
| National Historic Preservation Act/Alaska State Historic Preservation Act | Consultation with funding agency and SHPO  | develop field plans for each community           | field work and reporting; conclude consultatoin |   |            |
| Easements and ROW   | identification of route and obtain basic information on ownership, and property limits |  |   | complete acquisition of necessary interests |            |
| State Land Use Permit   | develop application once route selection is finalized                                  | submit and review project                        | public notice                                   | application processing                      | Approval   |

# HYPOTHETICAL PROJECT

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# WHAT WORKS WELL

- Federal staff (mostly) very willing to be as expedient as possible, particularly if proponent has regular meetings with Federal agency management team to ensure the project is prioritized appropriately. Federal staff often defer to local expertise and experience.
- State SHPO office staff have a lot of experience and understand process very well.
- State of Alaska has standardized easement rates specific to fiber optic projects (at \$0.56/LF) for public utilities this is a one-time calculation for the life of the project.
- When properly marketed, Projects are buoyed by strong local support that increases regulators attention on getting the Project done with few roadblocks.

## HOW TO REDUCE DELAYS (RECOMMENDATIONS)

- Proponents:
  - Reduce uncertainty with project design/design changes by better understanding key decision points to avoid delays.
  - Improve communication with local stakeholders and communities about timelines, phases, and overall regulatory process.
  - Develop a good working relationship with Federal agency staff. Schedule regular meetings to facilitate two-way communication and ensure the project is progressing and is being prioritized.
- State of Alaska:
  - Increase staffing levels in most departments (ROW, DMLW, SHPO) by filling vacancies.
  - Improve publicly available land ownership mapping – most data is outdated and creating reliable datasets is time consuming.
  - Prioritize projects to place ROW/Easement applications at the top of the queue for agency reviews and processing.
  - Redirect federal funding through Denali Commission (quicker NEPA process and local staff) or state agencies (removes NEPA, except through permitting process).
- Stakeholders:
  - Improve timeliness of response

# CONCLUSION & DISCUSSION

***THANK YOU FOR YOUR TIME***